



# City Council Response to Grand Jury Report titled “Medical Marijuana in San Diego”

Rules Committee  
September 8, 2010



# Grand Jury Report

- Filed on June 7, 2010
- Addresses issues raised in complaints to Grand Jury regarding absence of, and inconsistencies in, guidelines for access to medical marijuana
- The report includes eleven findings and eighteen recommendations
  - Four findings and three recommendations were directed to the Mayor and City Council
- Superior Court granted extension to November 1 due to demands of legislative calendar



# City Council Response

- For each finding:
  - Agree
  - Disagree wholly or partially
- For each recommendation:
  - Has been implemented
  - Has not yet been implemented, but will be
  - Requires further analysis
  - Will not be implemented



# City Council Response

- IBA received copy of Mayor's draft responses
- For each item, Council may:
  - Join the Mayor's response
  - Modify the Mayor's response
  - Respond independently of the Mayor
- IBA has prepared recommended responses on behalf of the Council



# City Council Response

Recommendations:	10-115	<i>Respond with a Modification to the Mayor's Response</i>
Findings:	05	
Recommendations:	10-114, 10-116	<i>Respond Independently of Mayor</i>
Findings:	04, 06, 11	





## Finding #04

- *“The San Diego City Council is empowered by Government Code Section 65858 to enact a moratorium on the opening of additional medical marijuana dispensaries.”*
- **Mayor’s Draft Response:** Partially agree.
  - While the Council is empowered to enact a moratorium, a moratorium is not necessary under the present code
  - Dispensaries are not presently a permitted use in the City’s Land Development Code



## Finding #04

- **IBA Recommendation: Agree.**
- A July 24, 2009 City Attorney report to the PS&NS Committee advised that the City Council has the authority to enact a moratorium on the opening of medical marijuana dispensaries
- At this time, the City Council has not elected to enact a moratorium



## Finding #05

- *“Adopting cost neutral zoning and land use ordinances is an effective method for the licensing, regulation and periodic inspection of cooperatives and collectives distributing medical marijuana in the unincorporated areas and eighteen cities of San Diego County.”*
- **Mayor’s Draft Response:** Partially agree. While the adoption of such ordinances may be an obvious option to regulate medical marijuana cooperatives, there is no present evidence to prove that such ordinances are effective in regulating the distribution of medical marijuana.





## Finding #05

- **IBA Recommendation: Partially Agree.**
- A number of city and counties within the state of California have utilized cost neutral zoning and land use ordinances to license, regulate, and inspect cooperatives and collectives
- Other regulatory authority, such as police, health, and general administration is involved to a varying degree
- The effectiveness of any type of ordinance would vary based on the specific regulations involved, the level of enforcement, and the community in which they are applied



## Finding #06

- *“The recommendations of the City of San Diego’s Medical Marijuana Task Force for zoning and land use ordinances for cooperatives and collectives may serve as a model for adoption by other cities in the County.”*
- **Mayor’s Draft Response: No Response.**



## Finding #06

- **IBA Recommendation: Partially Agree.**
- The Medical Marijuana Task Force's recommendations will advise the City Council regarding zoning and land use ordinances for cooperatives and collectives
- The final ordinance will evolve as the ordinance progresses through the Land Development Code amendment review process
- Whether the Task Force's recommendations can serve as a model for adoption by other cities in the County will be determined on a city by city basis



## Finding #11

- *“The imposition of regulatory fees and associated costs could create a financial hardship for the smaller medical marijuana cooperatives and collectives.”*
- **Mayor’s Draft Response:** Disagree. There are no public records which presently show the financial status of any of these dispensaries. Therefore we cannot determine if regulatory fees and costs would create any financial hardships regardless of the dispensary’s size.





## Finding #11

- **IBA Recommendation: Partially Agree.**
- Larger regulatory fee amounts would increase the upfront costs that medical marijuana cooperatives and collectives would have to bear in order to establish legal existence
- Depending on the financial status of the potential operator, higher start-up costs may create a financial hardship
- Operators can recover these expenses by integrating them into costs borne by cooperative and collective members



## Recommendation 10-114

- *“Enact an ordinance creating an immediate moratorium on the opening of additional medical marijuana dispensaries in the City of San Diego, pending the adoption by the council of guidelines regulating such establishments, as recommended by the Medical Marijuana Task Force with appropriate public input.”*
- **Mayor’s Draft Response:** Will not be implemented.



## Recommendation 10-114

- Medical marijuana dispensaries are not presently a permitted use in the City of San Diego's Land Development Code
- Since the City is taking enforcement action to close all of the existing shops, a moratorium would be redundant and unnecessary



## Recommendation 10-114

- **IBA Recommendation: Requires Further Analysis.**
- At this time, the City Council has not elected to enact a moratorium
- The City Council's current efforts have attempted to address concerns regarding allowing for safe and legal access to medical marijuana through Task Force efforts and Council and Committee hearings
- The City Attorney's Office is currently drafting ordinances for review





## Recommendation 10-114

- At a City Council meeting in the fall, the City Council will discuss whether to adopt a resolution to initiate amendments to the City's Land Development Code and Local Costal Program in relation to medical marijuana collectives and cooperatives
- As this process moves forward, all options deemed appropriate will be examined



## Recommendation 10-115

- *“Enact an ordinance to establish a cost neutral program for the licensing, regulation and monitoring of medical marijuana collectives and cooperatives, and establish a limit on the number of such facilities.”*
- **Mayor’s Draft Response:** The City Council is in the process of implementing this recommendation.



## Recommendation 10-115

- **IBA Recommendation: The Recommendation Has Not Yet Been Implemented, but Will Be Implemented in the Future**
- Both the PS&NS and LU&H Committees have provided direction to the City Attorney's Office to draft an ordinance incorporating both the Medical Marijuana Task Force's recommendations and Committee modifications
- The direction from both Committees to the City Attorney's Office does not specifically incorporate a facility limit



## Recommendation 10-115

- The incorporation of zoning and use limitations in the draft ordinance, as directed by the LU&H Committee, will effectively limit the number of medical marijuana collectives and cooperatives that can feasibly exist within the City
- Whether the final ordinance will explicitly incorporate a limit on the number of facilities will be determined by future deliberations





## Recommendation 10-116

- *“Adopt regulations which would allow for the closure of all unlicensed dispensaries.”*
- **Mayor’s Draft Response:** Does Not Need to be Implemented.
  - Medical marijuana collectives are not presently permitted to operate in any zone within the city
  - San Diego Municipal Code §12.0102 provides the authority and powers necessary to gain compliance with violations of the municipal code and close the unpermitted dispensaries
  - The City is currently prosecuting approximately 125 cases involving medical marijuana dispensaries and is requiring all to shut down



# Recommendation 10-116

- **IBA Recommendation: Requires Further Analysis.**
- The LU&H Committee has expressed its intent to include language in a future ordinance amending the Municipal Code that will outline criteria for the existence of dispensaries
- Dispensaries currently in existence that are not in compliance with the new ordinance will be shut down
- The new ordinance will be discussed at a future Council meeting



# Questions?